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7 Attorneys for CALIFORNIA NEWS
 PUBLISHERS ASSOCIATION

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

12 JOSE ALVARADO,

Case No. 4:19-cv-6417 (JST)

13 Plaintiff,

**[PROPOSED] REQUEST FOR JUDICIAL
 NOTICE IN SUPPORT OF AMICUS
 BRIEF OF THE CALIFORNIA NEWS
 PUBLISHERS ASSOCIATION**

14 v.

15 MOTHER JONES, LLC,

Ctrm: 6, 2nd Floor
 Judge: The Hon. Jon S. Tiger

16 Defendant.

17
 18 **REQUEST FOR JUDICIAL NOTICE**

19 California News Publishers Association (“CNPA”) files this Request for Judicial Notice in
 20 Support of its concurrently-filed Application for Leave to File Amicus Brief and Related
 21 Documents and its Proposed Amicus Brief. CNPA respectfully requests that the Court take
 22 judicial notice pursuant to Federal Rule of Evidence 201(b) of the following documents attached
 23 as exhibits to the Proposed Declaration of James Chadwick in Support of Amicus Brief of the
 24 California News Publishers Association (“Chadwick Declaration”) filed herewith:

25 • **Exhibit A:** the order entered Nov. 1, 2019 in *Berger v. Imagina Consulting, Inc.*,
 26 No 7:18-cv-08956 (CS), 2019 U.S. Dist. LEXIS 213321 (S.D.N.Y. Nov. 1, 2019)
 27 downloaded from the Lexis case law database (Chadwick Decl., ¶ 4);

- 1 • **Exhibit B:** the decision and order of the United States District Court for the
2 Southern District of New York entered March 29, 2019 in the case of *Craig v.*
3 *UMG Recordings, Inc.*, 380 F. Supp. 3d 324, 338-39 (S.D.N.Y. 2019) downloaded
4 from the Lexis case law database (Chadwick Decl., ¶ 5);
- 5 • **Exhibit C:** the decision and order of the United States District Court for the
6 District of Colorado entered July 3, 2019 in *Stelzer v. Lead Stories LLC*, No. 19-cv-
7 00473-PAB-KMT, 2019 U.S. Dist. LEXIS 178345, at *9-10 (D. Colo. July 3,
8 2019) downloaded from the Lexis case law database (Chadwick Decl., ¶ 6);
- 9 • **Exhibit D:** the decision and order of the United States District Court for the
10 Southern District of New York entered February 28, 2018 in *Steeger v. JMS*
11 *Cleaning Services, LLC*, No. 17-cv-8013 (DLC), 2018 U.S. Dist. LEXIS 32730, at
12 *3 (S.D.N.Y. Feb. 28, 2018) downloaded from the Lexis case law database
13 (Chadwick Decl., ¶ 7);
- 14 • **Exhibit E:** the order entered on March 15, 2018, *Steeger v. JMS Cleaning Services,*
15 *LLC*, No. 17-cv-8013 (DLC), 2018 U.S. Dist. LEXIS 42797 (S.D.N.Y. Mar. 15,
16 2018) downloaded from the Lexis case law database (Chadwick Decl., ¶ 7);
- 17 • **Exhibit F:** the decision and order of the United States District Court for the Southern
18 District of New York entered July 10, 2019 in *Rice v. NBCUniversal Media, LLC*,
19 No. 19-cv-447 (JMF), 2019 U.S. Dist. LEXIS 114690 (S.D.N.Y. July 10, 2019)
20 downloaded from the Lexis case law database (Chadwick Decl., ¶ 8);
- 21 • **Exhibit G:** the order of the United States District Court for the Southern District of
22 New York entered October 9, 2019, in *Polaris Images Corp. v. CBS Interactive,*
23 *Inc.*, No. 19-CV-3670 (VEC), 2019 U.S. Dist. LEXIS 175618, at *2 (S.D.N.Y. Oct.
24 9, 2019) downloaded from the Lexis case law database (Chadwick Decl., ¶ 9);
- 25 • **Exhibit H:** the order of the United States District Court for the Southern District of
26 New York entered September 18, 2019 in *Sands v. Bauer Media Grp. USA, LLC*,
27 No. 17-cv-9215 (LAK), 2019 U.S. Dist. LEXIS 160421 (S.D.N.Y. Sep. 18, 2019)
28 downloaded from the Lexis case law database (Chadwick Decl., ¶ 10);

- **Exhibit I:** the decision and order of the United States District Court for the Southern District of New York entered *Ferdman v. CBS Interactive, Inc.*, 342 F. Supp. 3d 515 (S.D.N.Y. 2018) downloaded from the Lexis case law database (Chadwick Decl., ¶ 11).
- **Exhibit J:** the docket in the case *Berger v. Imagina Consulting, Inc.*, No 7:18-cv-08956 (CS) (S.D.N.Y.) printed from the PACER website of the Federal District Court for the Southern District of New York on December 14, 2019 (Chadwick Decl., ¶ 13).
- **Exhibit K:** a list of cases brought by Richard P. Liebowitz in the Northern District of California in which Mr. Liebowitz is listed as counsel for the plaintiff.

Federal Rule of Evidence 201(b) allows courts to “judicially notice a fact that is not subject to reasonable dispute because it . . . is generally known within the trial court’s territorial jurisdiction; or . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). Judicial notice may be taken at any stage of the proceeding, and the Court “must take judicial notice if [a] party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c); *Papai v. Harbor Tug & Barge Co.*, 67 F.3d 203, 207, n.5 (9th Cir. 1995) (“Such ‘[j]udicial notice may be taken at any stage of the proceeding,’ including on appeal; and is mandatory ‘if requested by a party and [the court is] supplied with the necessary information.’” (citations omitted)), *rev’d on other grounds*, 520 U.S. 548 (1997).

Adjudicative facts of which the Court may take judicial notice include “court filings and other matters of public record.” *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746, fn. 6 (9th Cir. 2006) (taking judicial notice of parties’ briefs filed in related litigation and transcript of hearing); *Papai*, 67 F.3d at 207, n.5 (taking judicial notice of decision and order of administrative law judge); *Nero AG v. MPEG LA, L.L.C.*, No. 10-cv-3672-MRP-RZ, 2010 U.S. Dist. LEXIS 119030, at *25 (C.D. Cal. Sep. 14, 2010); *Frisch v. Paychex, Inc.*, No. SACV 16-01583 AG (AGRx), 2017 U.S. Dist. LEXIS 170894, at *2 (C.D. Cal. Oct. 13, 2017) (taking judicial notice of “unpublished appellate decisions, which are available on a commercial research database.”)

1 Exhibits A - I to the Chadwick Declaration are decisions and orders of courts of the United
 2 States District Court for the Southern District of New York and the District of Colorado. These
 3 documents are publicly available and readily verifiable on the PACER website and dockets for the
 4 District Courts, and several have been reported by an official reporter . (See Chadwick Decl., ¶¶ 5,
 5 11, 13, Exs. B, I.) The decisions and orders are also available from the Lexis case law database,
 6 from which the copies attached to the Chadwick Declaration were obtained. (Chadwick Decl., ¶¶ 4
 7 - 11, Exs. A - I.) Accordingly, Exhibits A - I to the Chadwick Declaration are proper subjects of
 8 judicial notice, and their reliability and authenticity are easily verifiable and cannot be reasonably
 9 disputed. *See* Fed. R. Evid. 201(b). Thus, the Court should take judicial notice of these
 10 documents.

11 Similarly, Exhibit J is a copy of the docket in the case *Berger v. Imagina Consulting, Inc.*,
 12 No 7:18-cv-08956 (CS) (S.D.N.Y.) that was printed from the PACER website of the Federal
 13 District Court for the Southern District of New York on December 14, 2019. Exhibit J is an
 14 official record of the Federal District Court of the Southern District of New York. “A court may
 15 take judicial notice of undisputed matters of public record, which may include court records
 16 available through PACER.” *United States v. Raygoza-Garcia*, 902 F.3d 994, 1001 (9th Cir. 2018).
 17 Accordingly, the Court may take judicial notice of Exhibit J and the orders of the court reflected
 18 therein. *Id.*; *Reyn’s Pasta Bella*, 442 F.3d at 746, fn. 6.

19 Exhibit K is simply a list of cases filed by Mr. Liebowitz in the Northern District of
 20 California, obtained by a PACER search and confirmed by a review of the dockets of each of the
 21 listed case. The Court may take judicial notice of the filing and existence of these case. *See*
 22 *United States v. Raygoza-Garcia*, 902 F.3d at 1001.

23 Dated: April 8, 2019

24 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

25 By _____ /s/ *James M. Chadwick*
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 27 TENAYA RODEWALD
 28 Attorneys for CALIFORNIA NEWS
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